



DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 206

[Docket ID FEMA-2020-0038]

RIN 1660-AA99

Cost of Assistance Estimates in the Disaster Declaration Process for the Public

Assistance Program; Public Meetings; Extension of Comment Period

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Announcement of public meetings; extension of comment period.

SUMMARY: The Federal Emergency Management Agency (FEMA) is further extending the public comment period for its proposed rule published December 14, 2020, and will hold two additional public meetings remotely via web conference to solicit feedback on the proposed rule. The rule proposed to substantively revise the “estimated cost of the assistance” disaster declaration factor that FEMA uses to review a Governor’s request for a major disaster under the Public Assistance Program.

DATES: Written comments on the proposed rule published at 85 FR 80719 (December 14, 2020) may be submitted until 11:59 p.m. Eastern Time (ET) on Monday, April 12, 2021.

FEMA will hold meetings on Monday, March 22, 2021, from 4 to 6 p.m. ET, and Tuesday, March 23, 2021, from 2 to 4 p.m. ET. The public meeting on March 23 will be focused on issues specific to Indian Tribal governments. Depending on the number of speakers, the meetings may end before the time indicated, following the last call for comments.

ADDRESSES: The public meetings will be held via web conference. Members of the public may register to attend the meetings online at the following links:

For the March 22 meeting:

<https://attendee.gotowebinar.com/register/7166868991421456908>

For the March 23 Tribal meeting:

<https://attendee.gotowebinar.com/register/812338295713499916>

If you would like to speak at a meeting, please indicate that on the registration form. For the March 23 meeting, FEMA will be prioritizing comments from representatives and members of Indian Tribal governments. If there is time remaining in a meeting after all registered speakers have finished, FEMA will invite comments from others in attendance.

Reasonable accommodations are available for people with disabilities. To request a reasonable accommodation, contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section below as soon as possible. Last minute requests will be accepted but may not be possible to fulfill.

Written comments on the proposed rule must be submitted via the Federal eRulemaking Portal at <https://www.regulations.gov>. Search for FEMA-2020-0038-0001 and follow the instructions for submitting comments.

All written comments received, including any personal information provided, may be posted without alteration at <https://www.regulations.gov>. All comments on the proposed rule made during the meetings will be posted to the rulemaking docket on <https://www.regulations.gov>.

For access to the docket and to read comments received by FEMA, go to <https://www.regulations.gov> and search for Docket ID FEMA-2020-0038.

FOR FURTHER INFORMATION CONTACT: Tod Wells, Deputy Division Director, Recovery Directorate, Public Assistance, via email at FEMA-PA-Policy-Questions@fema.dhs.gov or via phone at (202) 646-2500.

SUPPLEMENTARY INFORMATION: On December 14, 2020, FEMA published a proposed rule titled Cost of Assistance Estimates in the Disaster Declaration Process for the Public Assistance Program.¹ Pursuant to 44 CFR 206.48(a), FEMA considers several factors when determining whether to recommend that the President declare a major disaster authorizing the Public Assistance program. In the Disaster Recovery Reform Act of 2018 (DRRA),² Congress directed FEMA to generally review those factors, specifically the estimated cost of the assistance factor, and to update them through rulemaking, as appropriate.³ Congress also directed FEMA to give greater consideration to the recent multiple disasters and localized impacts factors⁴ when evaluating a request for a major disaster.⁵

As published on December 14, 2020, FEMA proposes to amend the estimated cost of the assistance factor in 44 CFR 206.48(a)(1) to raise the per capita indicator and the minimum threshold. As is detailed in the proposed rule, the current per capita indicator and minimum threshold do not provide an accurate measure of States' capabilities to respond to disasters.⁶ FEMA does not propose to substantively revise the localized impacts factor because it is already sufficiently flexible to address the requirements of section 1232 of the DRRA. FEMA also does not propose any revisions to the recent multiple disasters factor, but requests comment on whether the 12-month time limit currently in place is sufficient to address this factor as required by the DRRA.

¹ 85 FR 80719 (Dec. 14, 2020).

² Pub. L. 115–254, 132 Stat. 3438 (Oct. 5, 2018).

³ DRRA sec. 1239.

⁴ 44 CFR 206.48(a)(2), (5).

⁵ DRRA sec. 1232.

⁶ See 85 FR 80719.

DRRA further provided that FEMA shall engage in meaningful consultation with relevant representatives of State, regional, local, and Indian Tribal government stakeholders.⁷ In fulfillment of this requirement, FEMA held a public meeting on February 24, 2021, to solicit feedback on the proposed rule from its stakeholders and extended the comment period for the rule from February 12 to March 12, 2021.⁸

Due to technical difficulties at the February 24 meeting, FEMA is further extending the comment period until April 12, 2021, and will hold two additional public meetings on March 22 and 23, 2021, to ensure all interested parties have the fullest opportunity to provide comments on the proposed rule. The meeting on March 23 will focus on the potential impact of the proposed rule on Indian Tribal governments and is intended to give Tribal members and representatives a separate opportunity to provide their feedback on the proposed rule. FEMA welcomes input, both at the meetings and in written comments submitted separately, on considerations of local economic factors such as the local assessable tax base; the local sales tax; the median income and poverty rate of the local affected area as it compares to that of the State and the economic health of the State, including such factors as the State unemployment rate compared to the national rate; and how such factors can be used to evaluate whether the affected State and local governments have been overwhelmed.⁹

FEMA will carefully consider all relevant comments received during the meetings and during the rest of the comment period when determining whether to issue a final rule.

MaryAnn Tierney,
Acting Deputy Administrator,

⁷ DRRA sec. 1239.

⁸ 86 FR 8334 (Feb. 5, 2021).

⁹ See Explanatory Statement for H.R.133, Consolidated Appropriations Act, 2021, 166 Cong. Rec. H8479 (daily ed. Dec. 21, 2020).

Federal Emergency Management Agency.

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